UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,510	09/08/2003	Ralph A. Carbone	10012439-2	1778

7590 07/01/2004		EXAMINER
HEWLETT PACKARD COMPANY		RAEVIS, ROBERT R
Intellectual Property Administration		
P. O. Box 272400	ART UNIT	PAPER NUMBER
Fort Collins, CO 80527-2400	2856	

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/658,510	CARBONE ET AL.
	Examiner	**Art Unit**	
	Robert R. Raevis	2856	

-- The MAILING DATE of this communication appears on the cover she t with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *14 June 2004*.

2a) ☒ This action is **FINAL.** 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-23* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1,2,5-16,21-23* is/are rejected.

7) ☒ Claim(s) *3,4 and 17-20* is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____.

        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claims 1, 2, 5-8, 11, 13-16, 21 and 22 are rejected under 35 U.S.C. 102(a) as being anticipated by Applicant's Admission.

Applicant describes (pages 1-4) a method of sampling for a "presence" (col. 4, line 1) of fragile whisker-like metallic particulates, comprising: providing a "wet wipe" (p. 4, line 5) swatch capable of capturing and retaining the particulates; transporting the swatch to a suspect surface of a data center; extracting from the surface any particulates that may be present.

As to claims 1, 11, 13, 15, 16, 21, the sampling takes place on tile surfaces of a data center, and thus the surfaces are such that particulates may be present. Therefore, those suspect areas being sampled from are located as claimed.

As to claims 2, 15, 16, 21, the particulates being sampled adhere to the wet wipe.

As to claim 5, swatches are rubbed along a surface, requiring pressure.

As to claim 6, Applicant describes sampling from "a given area" (p.4, line 11) to determination "the concentration" (p. 4, line 11) of particulates, suggestive of determination of density.

As to claim 8, see p. 4, lines 6's "plastic bag" teaching.

As to claim 14, potential sample areas include the bottom of floor tiles, as they are "dragged across the top of each other" (p. 3, lines 21-22), necessarily causing particulates on bottom surfaces.

As to claim 22, note that identification is carried out by "visual inspection" (p. 3, last line) in addition ("*and/or*", italics added, p. 3, last line) to the "wiping" (p. 3, last line).

Claims 7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's statement.

As to claim 7, it is known to relate particular sample results to the area sampled for subsequent addressing of any results, suggestive of recording.

As to claim 12, it would have been obvious to take more than one sample from different areas of interest to allow for a test for a greater region to allow for a more comprehensive test.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Statement as applied to claim 1 above, and further in view of Jezek.

As to claims 8 and 9, it would have been obvious to store any sample taken because Jezek teaches (col. 2, lines 22-24) use of a container to protect a sample after collection, suggestive of use of a container to protect any sample.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Statement as applied to claim15 above, and further in view of Johnsson et al.

As to claim 23, it would have been obvious to employ a EDS analysis to the sampled material because Johnsson et al teach (col. 2, lines 40-50) application of EDS analysis to analyze whiskers.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Statement as applied to claim 2 above, and further in view of Moos.

As to claim 10, Moos (col. 3, lines 11-27) teaches that surface samplers employ holders that permit for holding any "type of material" (co. 3, line 19) to allow for sampling

of a "known sampler area" (col. 1, line 51) with a standard manner (i.e. "pressure" (col.

1, line 54)) to provide a standard sample for analysis.

Regarding Applicant's REMARKS, consider the following:

As to p. 3, lines 9-11; the prior art (p. 4, top paragraph, of specification)

specifically describes capturing/retaining whisker-like particulates. Even the REMARKS

(p. 2, last paragraph) repeats this. Of course both (specification and REMARKS) state

that the lab is "not always' able to determine if the zinc is in the form of a whisker, but

that passage clearly suggests that *more times* it does.

As to p. 3, third full paragraph; Applicant appears to argue that "adhesive" has a

particular meaning in the claims, i.e. "any material that provides more adhesive strength than the

adhesion provided by ...a wet wipe". As the term "adhesive" is a both a broad and well defined

term, Applicant may not be permitted to redefine its meaning in this application. Presently, the

argument of the level of adhesive is broader than the claimed adhesive of claims 2,15.

As to p. 3, 4th full paragraph; a swatch calls for some level of pressing.

Claim 5 does not call for only pressing as argued.

As p. 3, last paragraph; samples in a bag are protected from

contamination.

As to p. 4, top paragraph; the specification expressly suggests the bottom

of the floor tile as a suspect area (i.e. area of interest) for sampling.

As to p. 4, second paragraph; the specification expressly suggests that

"visual inspection" is employed. Visual inspection involves seeing the sampled items,

necessarily involving seeing their shapes.

As to p. 7, third and fourth paragraphs; Jezek teaches use of a container to protect sample condition. Even the admission extends to use of a bag.

Claims 3,4,17-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raevis whose telephone number is 571-272-2204. The examiner can normally be reached on Monday to Friday from 6:30am to 4:00pm. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).